

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DEREK CHRISTENSEN,

Petitioner,

vs.

ISIDRO BACA, *et al.*,

Respondents.

Case No. 3:14-cv-00157-RCJ-VPC

ORDER

Derek Christensen, a Nevada prisoner, has submitted an amended petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (#9). The court has reviewed the amended petition pursuant to Rule 4 of the Rules Governing Habeas Cases, and the amended petition shall be served upon the respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

1 Also before the court is petitioner's motion for the appointment of counsel (#8) and
2 supplemental motion for appointment of counsel (#10). There is no constitutional right to appointed
3 counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987);
4 *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally
5 discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481 U.S. 1023
6 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). However,
7 counsel must be appointed if the complexities of the case are such that denial of counsel would amount
8 to a denial of due process, and where the petitioner is a person of such limited education as to be
9 incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*,
10 423 F.2d 948 (8th Cir.1970). The amended petition on file in this action appears sufficiently clear in
11 presenting the issues that petitioner wishes to raise, and therefore, counsel is not justified. Petitioner's
12 motion is denied without prejudice.

13 **IT IS THEREFORE ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the
14 amended petition (# 9) on the respondents.

15 **IT IS FURTHER ORDERED** that respondents shall have **sixty (60)** days from entry of this
16 order within which to answer, or otherwise respond to, the amended petition. In their answer or other
17 response, respondents shall address any claims presented by petitioner in his petition as well as any
18 claims presented by petitioner in any Statement of Additional Claims. Respondents shall raise all
19 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
20 procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,
21 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
22 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have **forty-**
23 **five (45) days** from the date of service of the answer to file a reply.

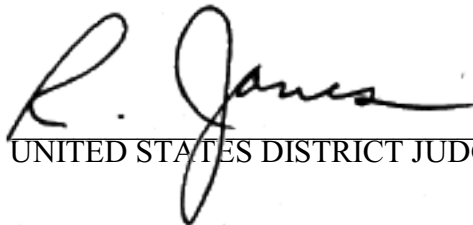
24 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
25 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
26 consideration by the court. Petitioner shall include with the original paper submitted for filing a
27 certificate stating the date that a true and correct copy of the document was mailed to the Attorney
28 General. The court may disregard any paper that does not include a certificate of service. After

1 respondents appear in this action, petitioner shall make such service upon the particular Deputy
2 Attorney General assigned to the case.

3 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents herein
4 shall be filed with a separate index of exhibits identifying the exhibits by number or letter. The
5 CM/ECF attachments that are filed further shall be identified by the number or numbers (or letter or
6 letters) of the exhibits in the attachment. The hard copy of any additional state court record exhibits
7 shall be forwarded – for this case – to the staff attorneys in Reno.

8 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel (#8) and
9 supplemental motion for appointment of counsel (#10) are both **DENIED** without prejudice.

10 Dated: This 19th day of November, 2014.

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14 UNITED STATES DISTRICT JUDGE
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